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11 Attorneys for Petitioner

12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Eugene Nunnery,

15 Petitioner,

16 v.

17 William Reubart, *et al.*,

18 Respondents.

Case No. 3:19-cv-00618-JAD-CSD

**Stipulation and Order to Stay
Federal Proceedings Pending
Exhaustion of State Remedies**

DEATH PENALTY CASE

ECF No. 39

STIPULATION

Petitioner Eugene Nunnery, through counsel Ellesse Henderson, Assistant Federal Public Defender, and Respondent William Reubart, et al, through counsel Matthew S. Johnson, Deputy Attorney General, hereby stipulate as follows:

- On September 16, 2022, Mr. Nunnery filed a supplement to his habeas petition in the Eighth Judicial District Court of Nevada. On October 27, 2022, he filed an amended petition before this Court. All of the claims in the amended petition filed in federal court are raised in the supplemental state petition.
- The parties agree that the federal proceedings should be stayed pending the conclusion of the state exhaustion proceedings.
- The parties agree that the exhaustion proceeding includes any appeal to the Nevada Supreme Court following resolution of the petition in the state district court, and that the proceeding is concluded once remittitur issues from that appeal.
- The parties agree that Mr. Nunnery will file a status report regarding the progress of the exhaustion proceeding on December 15, 2022, and every six months thereafter until the exhaustion proceeding is concluded. Respondents may, if necessary, file and serve a response to any such status report within 15 days after its service. If necessary, Mr. Nunnery may then file a reply within 15 days of service of the response.

- The parties agree that Mr. Nunnery will file a motion to reopen the federal proceeding within thirty days of the conclusion of the state exhaustion proceedings.
- The parties agree that Respondents do not, by stipulating to the instant stay, waive any procedural defenses. By agreeing to this procedure, Respondents do not concede that Mr. Nunnery's post-exhaustion petition will be considered fully exhausted, timely, or free from procedural default.

Dated this 8th day of November, 2022.

Rene L. Valladares
Federal Public Defender

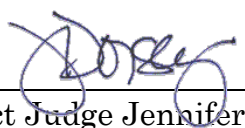
Aaron Ford
Nevada Attorney General

/s/ Ellesse Henderson
Ellesse Henderson
Assistant Federal Public Defender

/s/ Matthew S. Johnson
Matthew S. Johnson
Deputy Attorney General

ORDER

Based on the parties' stipulation [ECF No. 39] and good cause appearing, IT IS SO ORDERED. This action is STAYED pending exhaustion. The Clerk of Court is directed to **administratively close** this case.



U.S. District Judge Jennifer A. Dorsey

Dated 11/9/22